

United States District Court
DISTRICT OF NEW MEXICO

UNITED STATES OF
AMERICA,

Plaintiff,

v.

WILLIAM C.
GARDNER, DDS,

Defendant.

No. 1:22-cv-00830-JB-JFR

JOINT MOTION FOR PROTECTIVE ORDER

Plaintiff the United States and defendant William Gardner jointly request that the Court enter in this case the stipulated protective order attached to this motion, stating as follows:

1. The government brings this civil action against Gardner alleging violations of the Controlled Substances Act, 21 U.S.C. §§ 801 *et seq.*, and False Claims Act, 31 U.S.C. §§ 3729 *et seq.*
2. The government contends that, among other things, Gardner illegally prescribed controlled substances for his dental patients after the New Mexico Board of Dental Health Care revoked his license to practice dentistry and after his New Mexico controlled-substances license expired. *E.g.*, ECF 1 (complaint) ¶¶ 49–72.
3. Gardner disputes the government’s claims. *E.g.*, ECF 4 (answer).
4. Discovery in this matter will accordingly require production of certain individually identifiable health information of various dental patients, including, for example, prescriptions for controlled substances written for those patients. *E.g.*, ECF 1-1 at 1–2, ECF 1-2 at 1, ECF 1-3 at 1 (describing “Prescriptions” for “Patients”).

5. The parties agree that the information described above may be subject to the confidentiality provisions of the Privacy Act (5 U.S.C. § 552a), 45 C.F.R. §§ 164.102–.534, and 42 U.S.C. § 1306.

6. As such, the parties request that the Court enter the attached stipulated protective order under 5 U.S.C. § 552a(b)(11) and Federal Rule of Civil Procedure 26(c) to balance the need to protect patients’ confidential health information against the need to facilitate discovery in this matter.

WHEREFORE, the joint motion for a protective order should be granted.

APRIL 25, 2023

Respectfully Submitted,

ALEXANDER M.M. UBALLEZ
United States Attorney

s/ Gary W. Boyle 4/25/23, w/ consent

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CERTIFICATE OF SERVICE

I certify that, on April 25, 2023, I filed the foregoing document electronically through CM/ECF, which caused all parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

s/ Benjamin G. Minegar 4/25/2023

BENJAMIN G. MINEGAR
Assistant United States Attorney